


AGENDA ITEM #9
December 12, 2006

Introduction

MEMORANDUM

December 8, 2006

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

SUBJECT: Introduction – Zoning Text Amendment 06-26, Development Plan Findings-Amendment

Zoning Text Amendment (ZTA) 06-26 is being sponsored by Councilmember Knapp. This ZTA would allow land, commercially or industrially zoned at the time of a rezoning application, to be rezoned to various zones without a finding of substantial compliance with the land use and density recommended in the master plan or sector plan for the area.

In order for a rezoning application to be approved for various zones, the Zoning Ordinance currently requires a finding that the proposed zone is in substantial compliance with the use and density recommended by a master plan or sector plan. Included in the list of zones requiring this finding is the Planned Retirement Community zone. This amendment would allow housing for senior citizens, required in the Planned Retirement Community zone, to occur at more locations.

A public hearing on ZTA 06-26 is scheduled for January 16, 2007 at 1:30 pm.

Zoning Text Amendment No: 06-26
Concerning: Development Plan Findings
Draft No. & Date: 1 – 12/12/06
Introduced: December 12, 2006
Public Hearing: 1/16/07; 1:30 pm.
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Knapp

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- exempting existing commercially and industrially zoned land from a development plan finding of substantial compliance with the use and density recommend by a master plan or sector plan; and
- generally amending development plan requirements.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-D-1	"DEVELOPMENT PLAN"
Section 59-D-1.6.	"Approval by district council"
Section 59-D-1.61	"Findings"

EXPLANATION:

Boldface indicates a heading or a defined term.

Underlining indicates text that is added to existing laws by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

**** * * indicates existing law unaffected by the text amendment.***

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec.1. DIVISION 59-D-1 is amended as follows:

DIVISION 59-D-1. DEVELOPMENT PLAN.

* * *

59-D-1.6. Approval by district council.

59-D-1.61. Findings.

Before approving an application for classification in any of these zones, the District Council must consider whether the application, including the development plan, fulfills the purposes and requirements in Article 59-C for the zone. In so doing, the District Council must make the following specific findings, in addition to any other findings which may be necessary and appropriate to evaluate the proposed reclassification:

- (a) The zone applied for substantially complies with the use and density indicated by the master plan or sector plan and does not conflict with the general plan, the county capital improvements program, or other applicable county plans and policies, except that a finding of substantial compliance with the use and density indicated by the master plan or sector plan is not required if the existing zoning is a commercial or industrial zone. However, to permit the construction of all MPDUs required under Chapter 25A, including any bonus density units, on-site, a development plan may exceed, in proportion to the MPDUs to be built on site, including any bonus density units, any applicable residential density or building height limit established in a master plan or sector plan if a majority of an Alternative Review Committee composed of the Director of the Department of Housing and Community Affairs, the Executive Director of the Housing Opportunities Commission, and the Director of Park and Planning, or their respective designees, find that a development that includes all required MPDUs on site, including any bonus density units, would not be financially feasible within

the constraints of any applicable density or height limit. If the Committee finds that the development would not be financially feasible, the Planning Board must recommend to the District Council which if any of the following measures authorized by Chapter 59 or Chapter 50 should be approved to assure the construction of all required MPDUs on site:

- (1) exceeding an applicable height limit, lower than the maximum height in the zone, that was recommended in a master plan or sector plan,
- (2) exceeding an applicable residential density limit, lower than the maximum density in the zone, that was recommended in a master plan or sector plan, or
- (3) locating any required public use space off-site.

* * *

Sec. 2. Effective date. This ordinance takes effect 20 days after the date of Council adoption.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Resolution No:
Introduced: December 12, 2006
Adopted:

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND

By: District Council

Subject: Notice of Public Hearing on Zoning Text Amendment 06-26

Background

1. Section 59-H-9.3 of the Montgomery County Ordinance requires that, within thirty days of introduction of any text amendment, the Council act by resolution to set a date and time for public hearing on the proposed amendment.
2. Zoning Text Amendment No. 06-26, which would amend the Zoning Ordinance to exempt existing commercially and industrially zoned land from a development plan finding of substantial compliance with the use and density recommend by a master plan or sector plan; and generally amend development plan requirements, was introduced on December 12, 2006.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland approves the following resolution:

Legal notice will be given of the public hearing to be held on January 16, 2007 at 1:30 p.m., in the Council Hearing Room, Stella Werner Council Office Building, Rockville, Maryland, for the purpose of giving the public an opportunity to comment on the proposed amendment.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

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